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RUEHUL/AMEMBASSY SEOUL IMMEDIATE 6590  
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RUEHOK/AMCONSUL OSAKA KOBE IMMEDIATE 8533  
RUEHKSO/AMCONSUL SAPPORO IMMEDIATE 5517  
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C O N F I D E N T I A L SECTION 01 OF 03 TOKYO 005503

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TAGS: [PGOV](#) [PREL](#) [MOPS](#) [JA](#)

SUBJECT: DIET EXTENSION, OVERRIDE VOTE ON OEF BILL GROW  
MORE LIKELY

REF: TOKYO 5236

Classified By: Ambassador J. Thomas Schieffer, reasons  
1.4(b),(d).

11. (C) Summary. Prime Minister Fukuda appears poised to extend the current Diet session beyond December 15, with the expectation that his ruling LDP-Komeito coalition will use their two-thirds majority in the Lower House to override the opposition-controlled Upper House and pass key anti-terror legislation by no later than mid-January. The Diet session has already been extended once, and can be extended one more time. The main opposition DPJ has staunchly refused to cooperate on the measure thus far, and can hold the measure in the Upper House for up to 60 days, through January 12, before the measure is considered rejected and returned to the Lower House for a re-vote. End summary.

12. (C) The legislation to extend Japan's refueling support for Operation Enduring Freedom (OEF) was introduced to the opposition-controlled Upper House on November 13, where it can be held for a maximum of 60 days (through January 12), before it is considered rejected and can be passed into law by a two-thirds vote of the Lower House. Full-fledged deliberations did not begin in the Upper House Foreign Affairs and Defense Committee until December 3, as the opposition used its control to stall the proceedings by pursuing allegations of defense-related scandals. The ruling parties have failed thus far to overcome opposition resistance to increasing the frequency of Upper House Foreign Affairs and Defense Committee beyond the current Tuesdays and Thursdays, making it impossible to meet opposition Democratic Party of Japan (DPJ) demands that the Upper House match the 41 hours of deliberations in the Lower House. (Note: Upper House committees generally spend only 70-80 percent of the time on deliberations that their Lower House counterparts do.)

13. (C) For their part, DPJ leaders have instead shifted the blame to the Liberal Democratic Party (LDP), pointing out that the real delays came earlier in the session, with the sudden resignation of former Prime Minister Shinzo Abe and the two-week pause to elect his successor. The DPJ has also

refused repeated requests from the LDP to engage in policy discussions, other than the three meetings between Prime Minister Yasuo Fukuda and DPJ leader Ichiro Ozawa over the past five weeks, or to otherwise cooperate on the measure.

14. (C) The ruling coalition must decide this week whether to extend the session, and for how long. Embassy contacts in both the LDP and DPJ have various theories, but admit that it is impossible to predict exactly how this will play out. Several major dailies reported on December 6 and 7 that Prime Minister Yasuo Fukuda has already decided to use the ruling coalition's two-thirds majority in the Lower House to pass the refueling bill into law, although the reports carried no direct attribution. Fukuda has, however, repeatedly said that he believes the bill will be passed. An Embassy media contact related on December 6 that the LDP Diet Affairs Committee proposed four scenarios to the Prime Minister on December 3, noting that none of the four had mentioned the possibility of not extending the Diet session.

15. (C) Coalition partner Komeito contacts have told the Embassy on several occasions that they are ready to support the override vote, even if they are reluctant to say so publicly for their own political reasons. Some recent indications point to a vote in the Upper House before the end of the year. DPJ Secretary General Yukio Hatoyama told the press December 3 that his party has no plans to obstruct passage of the OEF refueling bill, assuming there is ample time for deliberation, and suggested that the bill could pass before the end of the year.

16. (C) The current extraordinary Diet session has already

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been extended once -- from November 10 to December 15 -- and can only be extended one more time under the Diet Law. Public support for the OEF measure continues to run in the mid-40's, but non-support levels are at nearly the same level. Faced with the twin pressures of completing the budget compilation process by the end of December and gearing up for the beginning of the 150-day ordinary Diet session in January, and no other real business to conduct in the current extraordinary session, neither party really gains from dragging this on until mid-January.

17. (C) The public is already growing weary of what it sees as a complete stalemate in the Diet since the opposition gained control of the Upper House in July, despite the passage of nine out of ten LDP-sponsored bills, with full DPJ support, over the past few weeks, and would likely hold both sides accountable for additional delays. A quick end to the session also leaves less time for an Upper House censure motion, which has no binding effect, unlike a no-confidence motion in the Lower House, but could further paralyze the Diet and trigger Lower House elections. DPJ Acting President Naoto Kan said on an evening news program on December 3 that the chances for Lower House dissolution will increase if the session is extended into January. A media contact told the Embassy recently that Kan is much more committed to a censure motion than either Ozawa or Hatoyama. (Note: The DPJ holds 115 of 242 Upper House seats, and would require support from several of the smaller opposition parties to pass a censure motion.)

18. (C) Some DPJ members, paradoxically, have told the Embassy that they fear being backed into a position where they will need to pass a censure motion, knowing that they are unprepared for a snap election. A December 3 Asahi poll showed the LDP and DPJ even at 32 percent when respondents were asked which party they would like to see win the next general election. One DPJ staffer said that a censure motion over the perfectly valid use of the override vote could very well be seen as a censure motion against the Constitution, putting the DPJ in a difficult spot. Komeito contacts, too, have emphasized the need to avoid a censure motion and new elections at all cost, although they support the OEF measure.

LDP contacts have tended to be more sanguine, disavowing any real impact from a censure motion. Either way, failure to pass the bill this term will almost certainly push possible passage back to the spring, sometime between a vote on the budget at the end of March and the G8 meetings in June.

¶9. (C) DPJ members have made no secret of their disagreements with Ozawa's policies and management style in conversations with the Embassy. Former DPJ leader Seiji Maehara continues to publicly criticize Ozawa's insistence on requiring a UNSC resolution for SDF deployments. He recently told the Embassy that Ozawa's insistence on classifying the SDF mission in the Indian Ocean as unconstitutional had "screwed up" the debate.

DPJ contacts have emphasized to the Embassy that the United States shouldn't read too much into policy positions in this highly politicized political environment, where both sides are jockeying for advantage in the next general election. Public criticism of the DPJ has also mounted, as the party has waffled between support for OEF and some sort of civilian participation in the International Security Assistance Force in Afghanistan in its own counterproposal, which has yet to be finalized.

¶10. (C) Longer term, both sides recognize that the government cannot continue to conduct business with a divided Diet unless some sort of compromise is reached. The Upper House cannot be dissolved, meaning that if the opposition fails to gain a majority in the Lower House in the next general election, the legislative gridlock could continue at least until the next Upper House election in summer 2009. Part of the debate concerns whether it is appropriate for the opposition to undertake consultations with the ruling parties on legislation outside the view of the public, as opposed to

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deliberating openly in the Diet. The opposition gains little from asserting its views to the ruling parties outside of public view. At the same time, the opposition will not always be able to take contrary positions on popular measures, and will suffer from appearing to be obstructionist in every case. The closed door discussions on several recently passed measures are a good demonstration of how the LDP and DPJ were able to overcome obstacles to passage by each side and come up with a compromise bill.

¶11. (C) This is particularly true as momentum has slowly drifted back toward the ruling parties after their lopsided loss in the July Upper House election. The LDP now outstrips the DPJ in every major media poll measuring party support, a reverse of the situation in July and August. Several major Ozawa missteps have hurt the main opposition party's standing, including his bid to form a grand coalition with the ruling parties, his subsequent flip-flop on resigning as party leader, and the aborted attempt to implicate Finance Minister Nukaga in a defense-related scandal. Fukuda and his administration, on the other hand, have managed to avoid being dragged into the ongoing investigations into improper ties between former Administrative Vice Minister of Defense Takemasa Moriya and a former executive of defense contractor Yamada Corp. Fukuda has also benefited from achieving his limited legislative agenda for this term, with the obvious exception of the refueling bill, unlike the DPJ, which has failed to use its control of the Upper House to even introduce most of the legislative measures promised during the July Upper House campaign.

SCHIEFFER